

AMENDED IN ASSEMBLY APRIL 8, 2014
AMENDED IN ASSEMBLY MARCH 18, 2014
AMENDED IN ASSEMBLY MARCH 10, 2014
CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1619

Introduced by Assembly Member Gonzalez

February 6, 2014

An act to amend, *repeal, and add* Sections 1296, 44910, 44929.21, and 44948.3 of, and to repeal Sections 44929.23, 44948, 44948.2, and 44948.5 of, ~~and 44929.23 of~~ the Education Code, relating to school employees.

LEGISLATIVE COUNSEL'S DIGEST

AB 1619, as amended, Gonzalez. Certificated school employees.

~~(1) Existing law provides that a certificated employee of a school district of any type or class, or an employee in a teaching position requiring certification qualifications of a county superintendent of schools that maintains schools and classes with an average daily attendance of 250 or more pupils, who completes 2 consecutive years and is reelected for the next succeeding school year to a position requiring certification, shall become and be classified as a permanent employee of the school district or county superintendent. Existing law authorizes the governing board of a school district of any type or class having an average daily attendance of less than 250 pupils to classify as a permanent employee of the district any employee who, after having been employed by the school district for 3 complete consecutive school years in a position or positions requiring certification qualifications, is reelected for the next succeeding school year to a position requiring~~

~~certification qualifications. If that classification is not made, existing law provides that the employee shall not attain permanent status and may be reelected from year to year thereafter without becoming a permanent employee until a change in classification is made.~~

~~This bill would provide that a certificated employee of a school district of any type or class or of a county superintendent of schools, regardless of the average daily attendance of the school district or county superintendent of schools, who completes 2 consecutive years and is reelected to a position requiring certification shall become and be classified as a permanent employee.~~

(1) Existing law, for a county superintendent of schools with schools and classes with an average daily attendance of 250 or more pupils, authorizes the county superintendent of schools to classify an employee in a teaching position requiring certification qualifications who completes 2 consecutive school years as a permanent employee in qualified positions, in accordance with specified procedures and notice requirements.

This bill, on and after July 1, 2015, would instead authorize a county superintendent of schools to classify a person employed in a nonsupervisory, nonmanagement position requiring certification qualifications for 2 consecutive school years, whose salary is paid from the county school service fund, as a permanent employee, and would specify that the provisions relating to probation, the attainment of permanent status, and dismissal that are otherwise applicable to employees of school districts with an average daily attendance of 250 or more pupils, are applicable to employees of county superintendents of schools, unless otherwise provided.

(2) Existing law, for a school district having an average daily attendance of 250 or more pupils, authorizes the governing board of the school district to classify a certificated employee as a permanent employee if he or she completes 2 consecutive school years of employment, as specified, in accordance with specified procedures and notice requirements.

This bill, on and after July 1, 2015, would make those provisions applicable only to those certificated employees in nonsupervisory, nonmanagement positions.

(3) Existing law, for a school district having an average daily attendance of less than 250 pupils, authorizes the governing board of the school district to classify a certificated employee as a permanent employee if he or she completes 3 consecutive school years of

employment, as specified, in accordance with specified procedures and notice requirements.

This bill, on and after July 1, 2015, would make those provisions applicable only to certificated employees in nonsupervisory, nonmanagement positions. The bill, on and after July 1, 2015, would make those provisions applicable to certificated employees in nonsupervisory, nonmanagement positions who are employed by county offices of education having an average daily attendance of less than 250 pupils. The bill would specify that the provisions relating to probation, the attainment of permanent employment status, and dismissal that are otherwise applicable to employees of school districts having an average daily attendance of less than 250 pupils, are applicable to the employees of county offices of education having an average daily attendance of less than 250 pupils, unless otherwise provided.

~~(2)~~

(4) Existing law authorizes the establishment of regional occupational centers or programs to provide career technical education and technical training to students. Existing law requires instruction in those centers or programs to only be given by a qualified teacher holding a certificate, as provided, but prohibits service by a person as an instructor in classes conducted at regional occupational centers or programs from being included in computing the service required as a prerequisite to attainment of, or eligibility to, classification as a permanent employee of a school district.

This bill, *on and after July 1, 2015*, would instead provide service by a person as an instructor in classes conducted at regional occupational centers or programs shall be included in computing the service required as a prerequisite to attainment of, or eligibility to, classification as a permanent employee of a school district.

~~(3) Existing law provides that first- and 2nd-year probationary employees of a school district may be dismissed during the school year for unsatisfactory performance or for cause, pursuant to specified procedures. Existing law, unless the school district elects to make the dismissal procedures specified above applicable, sets forth separate dismissal procedures for probationary employees of school districts with an average daily attendance of less than 250 pupils.~~

This bill would delete the separate dismissal procedures for probationary employees of school districts with an average daily attendance of less than 250 pupils, thereby subjecting all probationary employees, regardless of the average daily attendance of the school

~~district, to the same dismissal procedures. The bill would also delete obsolete references, update references, and make conforming and nonsubstantive changes.~~

(5) This bill would make conforming and related changes, and would set forth applicable provisions for school employees who are subject to the provisions specified above and are employed at the time the provisions of the bill become operative.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1296 of the Education Code is amended
2 to read:

3 1296. (a) If the average daily attendance of the schools and
4 classes maintained by a county superintendent of schools is 250
5 or more, each person who, after being employed for three complete
6 consecutive school years by the *county* superintendent in a teaching
7 position in those schools or classes requiring certification
8 qualifications and whose salary is paid from the county school
9 service fund, is reelected for the next succeeding school year to
10 such a position in those schools or classes, shall be classified as
11 and become a permanent employee of the county superintendent
12 of schools.

13 Such an employee shall have the same rights and duties as
14 employees of school districts to which Section 44882 applies.
15 Sections 44841, 44842, 44882, 44948.3, and 44948.5 are applicable
16 to these employees.

17 This subdivision shall apply only to probationary employees
18 whose probationary period commenced prior to the 1983–84 fiscal
19 year.

20 (b) If the average daily attendance of the schools and classes
21 maintained by a county superintendent of schools is 250 or more,
22 each person who, after being employed for two complete
23 consecutive school years by the *county* superintendent in a teaching
24 position in those schools or classes requiring certification
25 qualifications and whose salary is paid from the county school
26 service fund, is reelected for the next succeeding school year to
27 such a position in those schools or classes, shall be classified as

1 and become a permanent employee of the county superintendent
2 of schools.

3 The county superintendent of schools shall notify the employee,
4 on or before March 15 of the employee's second complete
5 consecutive year of employment by the *county* superintendent in
6 a teaching position in schools or classes maintained by the *county*
7 superintendent requiring certification qualifications, of the decision
8 to reelect or not reelect the employee for the next succeeding school
9 year to such a position in those schools. In the event that the county
10 superintendent *of schools* does not give notice pursuant to this
11 section on or before March 15, the employee shall be deemed
12 reelected for the next succeeding school year.

13 Such an employee shall have the same rights and duties as
14 employees of school districts to which Section 44882 applies.
15 Sections 44841, 44842, 44882, 44948.3, and 44948.5 are applicable
16 to these employees.

17 This subdivision shall apply only to probationary employees
18 whose probationary period commenced during the 1983–84 fiscal
19 year or any fiscal year thereafter.

20 (c) As used in this section, "teaching position" means any
21 certificated position designated as of January 1, 1983, by the county
22 board of education or the county superintendent of schools as a
23 teaching position for the purpose of granting probationary or
24 permanent status.

25 (d) *This section shall become inoperative on July 1, 2015, and,*
26 *as of January 1, 2016, is repealed, unless a later enacted statute,*
27 *that becomes operative on or before January 1, 2016, deletes or*
28 *extends the dates on which it becomes inoperative and is repealed.*

29 *SEC. 2. Section 1296 is added to the Education Code, to read:*

30 *1296. (a) (1) A person who, after being employed for two*
31 *complete consecutive school years by a county superintendent of*
32 *schools with an average daily attendance of 250 pupils or more,*
33 *in a nonsupervisory, nonmanagement position requiring*
34 *certification qualifications and whose salary is paid from the*
35 *county school service fund, is reelected for the next succeeding*
36 *school year to the position, shall be classified as and become a*
37 *permanent employee of the county superintendent of schools.*

38 *(2) The county superintendent of schools shall notify the*
39 *employee, on or before March 15 of the employee's second*
40 *complete consecutive year of employment by the county*

1 superintendent of schools in the position of the decision to reelect
2 or not reelect the employee for the next succeeding school year to
3 the position. If the county superintendent of schools does not give
4 notice pursuant to this section on or before March 15, the employee
5 shall be deemed reelected for the next succeeding school year.

6 (3) Unless otherwise provided by law, for a certificated
7 employee of a county office of education with an average daily
8 attendance of 250 or more pupils, the statutory provisions relating
9 to probation, the attainment of permanent employment status, and
10 dismissal that are applicable to employees of school districts with
11 an average daily attendance of 250 pupils or more shall apply,
12 including, but not limited to, Sections 44929.21 and 44948.3.

13 (b) Unless otherwise provided by law, for a certificated
14 employee of a county office of education with an average daily
15 attendance of less than 250 pupils, the statutory provisions relating
16 to probationary status, the attainment of permanent employment
17 status, and dismissal that are applicable to employees of school
18 districts with an average daily attendance of less than 250 pupils
19 shall apply, including, but not limited to, Sections 44929.23, 44948,
20 44948.2, 44948.3, and 44948.5.

21 (c) The following provisions are applicable to a certificated
22 employee who is subject to the provisions of this section who is
23 employed on July 1, 2015:

24 (1) If the certificated employee has less than two consecutive
25 years of service at the county office of education as of July 1, 2015,
26 the employee shall complete his or her probationary period, and
27 shall be granted permanent employee status upon reelection to his
28 or her third year of service.

29 (2) If a certificated employee has at least two consecutive years
30 of service at a county office of education as of July 1, 2015, and
31 has been reelected to at least a third year of service, the employee
32 shall be granted permanent employee status.

33 (d) This section shall become operative on July 1, 2015.

34 SEC. 3. Section 44910 of the Education Code is amended to
35 read:

36 44910. (a) Service by a person as an instructor in classes
37 conducted at regional occupational centers or programs, as
38 authorized pursuant to Section 52301, shall not be included in
39 computing the service required as a prerequisite to attainment of,

1 or eligibility to, classification as a permanent employee of a school
2 district.

3 ~~This~~

4 (b) *This section shall not be construed to apply to any regularly*
5 *credentialed teacher who has been employed to teach in the regular*
6 *educational programs of the school district and subsequently*
7 *assigned as an instructor in regional occupational centers or*
8 *programs, nor shall it affect the status of regional occupational*
9 *center teachers classified as permanent or probationary at the time*
10 *this section becomes effective.*

11 (c) *This section shall become inoperative on July 1, 2015, and,*
12 *as of January 1, 2016, is repealed, unless a later enacted statute,*
13 *that becomes operative on or before January 1, 2016, deletes or*
14 *extends the dates on which it becomes inoperative and is repealed.*

15 *SEC. 4. Section 44910 is added to the Education Code, to read:*

16 *44910. (a) Service by a person as an instructor in a class*
17 *conducted at a regional occupational center or program, as*
18 *authorized pursuant to Section 52301, shall be included in*
19 *computing the service required as a prerequisite to the attainment*
20 *of, or eligibility to, classification as a permanent employee of a*
21 *school district.*

22 (b) *The following provisions apply to an employee subject to*
23 *this section who is employed on July 1, 2015:*

24 (1) *If, as of July 1, 2015, the certificated employee has completed*
25 *less than two consecutive years of service at a regional*
26 *occupational center or program operated by a school district or*
27 *county office of education with an average daily attendance of 250*
28 *or more pupils, the employee shall complete his or her*
29 *probationary period and shall be granted permanent employee*
30 *status upon reelection to his or her third year of service.*

31 (2) *If, as of July 1, 2015, the certificated employee has completed*
32 *at least two consecutive years of service at a regional occupational*
33 *center or program operated by a school district or county office*
34 *of education with an average daily attendance of 250 or more*
35 *pupils, and has been reelected to at least a third year of service,*
36 *the employee shall be granted permanent employee status.*

37 (3) *If, as of July 1, 2015, the certificated employee has less than*
38 *three consecutive years of service at a regional occupational center*
39 *or program operated by a school district or county office of*
40 *education with an average daily attendance of less than 250 pupils,*

1 *the employee shall complete his or her probationary period and*
2 *shall be granted permanent employee status upon reelection to his*
3 *or her fourth year of service, as applicable pursuant to Section*
4 *44929.23.*

5 (4) *If, as of July 1, 2015, the certificated employee has completed*
6 *at least three consecutive years of service at a regional*
7 *occupational center or program operated by a school district or*
8 *county office of education with an average daily attendance of less*
9 *than 250 pupils and has been reelected to at least a fourth year of*
10 *service, the employee shall be granted permanent employee status,*
11 *as applicable pursuant to Section 44929.23.*

12 (c) *This section shall become operative on July 1, 2015.*

13 SEC. 5. *Section 44929.21 of the Education Code is amended*
14 *to read:*

15 44929.21. (a) (1) *Every employee of a school district of any*
16 *type or class having an average daily attendance of 250 or more*
17 *who, after having been employed by the school district for three*
18 *complete consecutive school years in a position or positions*
19 *requiring certification qualifications, is reelected for the next*
20 *succeeding school year to a position requiring certification*
21 *qualifications shall, at the commencement of the succeeding school*
22 *year be classified as and become a permanent employee of the*
23 *school district.*

24 ~~This~~

25 (2) *This subdivision shall apply only to probationary employees*
26 *whose probationary period commenced prior to the 1983–84 fiscal*
27 *year.*

28 (b) (1) *Every employee of a school district of any type or class*
29 *having an average daily attendance of 250 or more who, after*
30 *having been employed by the school district for two complete*
31 *consecutive school years in a position or positions requiring*
32 *certification qualifications, is reelected for the next succeeding*
33 *school year to a position requiring certification qualifications shall,*
34 *at the commencement of the succeeding school year, be classified*
35 *as and become a permanent employee of the school district.*

36 ~~The~~

37 (2) *The governing board of the school district shall notify the*
38 *employee, on or before March 15 of the employee’s second*
39 *complete consecutive school year of employment by the school*
40 *district in a position or positions requiring certification*

1 qualifications, of the decision to reelect or not reelect the employee
2 for the next succeeding school year to the position. In the event
3 that the governing board of the school district does not give notice
4 pursuant to this section on or before March 15, the employee shall
5 be deemed reelected for the next succeeding school year.

6 ~~This~~

7 (3) This subdivision shall apply only to probationary employees
8 whose probationary period commenced during the 1983–84 fiscal
9 year or any fiscal year thereafter.

10 (c) This section shall become inoperative on July 1, 2015, and,
11 as of January 1, 2016, is repealed, unless a later enacted statute,
12 that becomes operative on or before January 1, 2016, deletes or
13 extends the dates on which it becomes inoperative and is repealed.

14 SEC. 6. Section 44929.21 is added to the Education Code, to
15 read:

16 44929.21. (a) An employee of a school district with an average
17 daily attendance of 250 or more pupils, after having been employed
18 by the school district for two complete consecutive school years
19 in a nonsupervisory, nonmanagement position requiring
20 certification qualifications who is reelected for the next succeeding
21 school year to a position requiring certification qualifications
22 shall, at the commencement of the succeeding school year, be
23 classified as and become a permanent employee of the school
24 district.

25 (b) The governing board of the school district shall notify the
26 employee, on or before March 15 of the employee's second
27 complete consecutive school year of employment by the school
28 district in a position requiring certification qualifications, of the
29 decision to reelect or not reelect the employee for the next
30 succeeding school year to the position. If the governing board of
31 the school district does not give notice pursuant to this section on
32 or before March 15, the employee shall be deemed reelected for
33 the next succeeding school year.

34 (c) The following provisions apply to an employee subject to
35 this section who is employed on July 1, 2015:

36 (1) If the certificated employee has completed less than two
37 consecutive years of service at the school district as of July 1,
38 2015, the employee shall complete his or her probationary period
39 and shall be granted permanent employee status upon reelection
40 to his or her third year of service.

1 (2) *If the certificated employee has completed at least two*
 2 *consecutive years of service at the school district and has been*
 3 *reelected to at least a third year of service as of July 1, 2015, the*
 4 *employee shall be granted permanent employee status.*

5 (d) *This section shall become operative on July 1, 2015.*

6 SEC. 7. *Section 44929.23 of the Education Code is amended*
 7 *to read:*

8 44929.23. (a) The governing board of a school district of any
 9 type or class having an average daily attendance of less than 250
 10 pupils may classify as a permanent employee of the *school* district
 11 any employee who, after having been employed by the school
 12 district for three complete consecutive school years in a position
 13 or positions requiring certification qualifications, is reelected for
 14 the next succeeding school year to a position requiring certification
 15 qualifications. If that classification is not made, the employee shall
 16 not attain permanent status and may be reelected from year to year
 17 thereafter without becoming a permanent employee until a change
 18 in classification is made.

19 (b) Notwithstanding subdivision (a), Section 44929.21 shall
 20 apply to certificated employees employed by a school district, if
 21 the governing board of the school district elects to dismiss
 22 probationary employees pursuant to Section 44948.2. If that
 23 election is made, the governing board *of the school district*
 24 thereafter shall classify as a permanent employee of the *school*
 25 district any probationary employee who, after being employed for
 26 two complete consecutive school years in a position or positions
 27 requiring certification qualifications, is reelected for the next
 28 succeeding school year to a position requiring certification
 29 qualifications as required by Section 44929.21. Any probationary
 30 employee who has been employed by the *school* district for two
 31 or more consecutive years on the date of that election in a position
 32 or positions requiring certification qualifications shall be classified
 33 as a permanent employee of the *school* district.

34 (c) If the classification is not made pursuant to subdivision (a)
 35 or (b), the employee shall not attain permanent status and may be
 36 reelected from year to year thereafter without becoming a
 37 permanent employee until the classification is made.

38 (d) *This section shall become inoperative on July 1, 2015, and,*
 39 *as of January 1, 2016, is repealed, unless a later enacted statute,*

1 *that becomes operative on or before January 1, 2016, deletes or*
2 *extends the dates on which it becomes inoperative and is repealed.*

3 *SEC. 8. Section 44929.23 is added to the Education Code, to*
4 *read:*

5 *44929.23. (a) The governing board of a school district or a*
6 *county office of education with an average daily attendance of less*
7 *than 250 pupils shall classify as a permanent employee of the*
8 *district any nonsupervisory, nonmanagement employee who, after*
9 *having been employed by the school district or county office of*
10 *education for three complete consecutive school years in a position*
11 *requiring certification qualifications, is reelected for the next*
12 *succeeding school year to a position requiring certification*
13 *qualifications.*

14 *(b) Notwithstanding subdivision (a), Section 44929.21 shall*
15 *apply to certificated employees employed by a school district or*
16 *county office of education if the governing board of the school*
17 *district or county office of education elects to dismiss probationary*
18 *employees pursuant to Section 44948.2. If that election is made,*
19 *the governing board thereafter shall classify as a permanent*
20 *employee of the school district or county office of education any*
21 *probationary employee who, after being employed for two complete*
22 *consecutive school years in a position requiring certification*
23 *qualifications, is reelected for the next succeeding school year to*
24 *a position requiring certification qualifications, as required by*
25 *Section 44929.21. A probationary employee who has been*
26 *employed by the school district or county office of education for*
27 *two or more consecutive years on the date of that election in a*
28 *position or positions requiring certification qualifications shall*
29 *be classified as a permanent employee of the school district or*
30 *county office of education.*

31 *(c) The following provisions apply to a certificated employee*
32 *subject to this section who is employed on July 1, 2015, at a school*
33 *district or county office of education with an average daily*
34 *attendance of less than 250 pupils:*

35 *(1) If the certificated employee has completed less than three*
36 *consecutive years of service, the employee shall complete his or*
37 *her probationary period and shall be granted permanent employee*
38 *status upon reelection to his or her fourth year of service, as*
39 *applicable pursuant to this section.*

1 (2) *If the certificated employee has completed at least three*
2 *consecutive years of service and has been reelected to at least a*
3 *fourth year of service, the employee shall be granted permanent*
4 *employee status, as applicable pursuant to this section.*

5 (d) *This section shall become operative on July 1, 2015.*

6 ~~SECTION 1. Section 1296 of the Education Code is amended~~
7 ~~to read:~~

8 ~~1296. (a) A person who, after being employed for two~~
9 ~~complete consecutive school years by a county superintendent of~~
10 ~~schools in a position requiring certification qualifications and~~
11 ~~whose salary is paid from the county school service fund, is~~
12 ~~reelected for the next succeeding school year to the position, shall~~
13 ~~be classified as and become a permanent employee of the county~~
14 ~~superintendent of schools.~~

15 ~~(b) (1) The county superintendent of schools shall notify the~~
16 ~~employee, on or before March 15 of the employee's second~~
17 ~~complete consecutive year of employment by the county~~
18 ~~superintendent of schools in a position requiring certification~~
19 ~~qualifications, of the decision to reelect or not reelect the employee~~
20 ~~for the next succeeding school year to the position. If the county~~
21 ~~superintendent of schools does not give notice pursuant to this~~
22 ~~section on or before March 15, the employee shall be deemed~~
23 ~~reelected for the next succeeding school year.~~

24 ~~(2) The employee shall have the same rights and duties as~~
25 ~~employees of school districts to which Section 44929.21 applies.~~
26 ~~Sections 44842, 44929.21, and 44948.3 are applicable to these~~
27 ~~employees.~~

28 ~~SEC. 2. Section 44910 of the Education Code is amended to~~
29 ~~read:~~

30 ~~44910. Service by a person as an instructor in classes conducted~~
31 ~~at regional occupational centers or programs, as authorized pursuant~~
32 ~~to Section 52301, shall be included in computing the service~~
33 ~~required as a prerequisite to attainment of, or eligibility to,~~
34 ~~classification as a permanent employee of a school district.~~

35 ~~SEC. 3. Section 44929.21 of the Education Code is amended~~
36 ~~to read:~~

37 ~~44929.21. (a) An employee of a school district of any type or~~
38 ~~class who, after having been employed by the district for two~~
39 ~~complete consecutive school years in a position or positions~~
40 ~~requiring certification qualifications, is reelected for the next~~

1 succeeding school year to a position requiring certification
2 qualifications shall, at the commencement of the succeeding school
3 year, be classified as and become a permanent employee of the
4 school district.

5 (b) The governing board of the school district shall notify the
6 employee, on or before March 15 of the employee's second
7 complete consecutive school year of employment by the school
8 district in a position or positions requiring certification
9 qualifications, of the decision to reelect or not reelect the employee
10 for the next succeeding school year to the position. In the event
11 that the governing board of the school district does not give notice
12 pursuant to this section on or before March 15, the employee shall
13 be deemed reelected for the next succeeding school year.

14 SEC. 4. Section 44929.23 of the Education Code is repealed.

15 SEC. 5. Section 44948 of the Education Code is repealed.

16 SEC. 6. Section 44948.2 of the Education Code is repealed.

17 SEC. 7. Section 44948.3 of the Education Code is amended to
18 read:

19 44948.3. (a) First and second year probationary employees
20 may be dismissed during the school year for unsatisfactory
21 performance determined pursuant to Article 11 (commencing with
22 Section 44660) of Chapter 3, or for cause pursuant to Section
23 44932. Any dismissal pursuant to this section shall be in
24 accordance with both of the following procedures:

25 (1) The superintendent of the school district or the
26 superintendent's designee shall give 30 days' prior written notice
27 of dismissal, not later than March 15 in the case of second year
28 probationary employees. The notice shall include a statement of
29 the reasons for the dismissal and notice of the opportunity to
30 appeal. In the event of a dismissal for unsatisfactory performance,
31 a copy of the evaluation conducted pursuant to Section 44664 shall
32 accompany the written notice.

33 (2) The probationary employee shall have 15 days from receipt
34 of the notice of dismissal to submit to the governing board of the
35 school district a written request for a hearing. The governing board
36 of the school district may establish procedures for the appointment
37 of an administrative law judge to conduct the hearing and submit
38 a recommended decision to the board. The failure of a probationary
39 employee to request a hearing within 15 days from receipt of a
40 dismissal notice shall constitute a waiver of the right to a hearing.

- 1 ~~(b) The governing board of the school district, pursuant to this~~
- 2 ~~section, may suspend a probationary employee for a specified~~
- 3 ~~period of time without pay as an alternative to dismissal.~~
- 4 ~~SEC. 8. Section 44948.5 of the Education Code is repealed.~~